



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 12 2011

OFFICE OF  
AIR AND RADIATION

Roger R. Martella, Jr.  
Rachel D. Gray  
James W. Coleman  
SIDLEY AUSTIN, LLP  
1501 K Street, NW  
Washington, DC 20005

Dear Mr. Martella, Ms. Gray, and Mr. Coleman:

The US Environmental Protection Agency (EPA) has considered the petition you submitted on August 3, 2010, on behalf of the National Alliance of Forest Owners (NAFO) asking the Agency to reconsider the implementation of the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas (GHG) Tailoring Rule ("Tailoring Rule"), 75 Fed. Reg. 31514 (June 3, 2010). In addition, in the petition, you requested that pending reconsideration, the Administrator stay the application of the PSD and Title V permitting programs to emissions of carbon dioxide (CO<sub>2</sub>) from biomass.

EPA is granting the August 3rd Petition for Reconsideration. By July 1, 2011, EPA will complete a rulemaking to defer for three years the application of the pre-construction and Title V permitting requirements to CO<sub>2</sub> emissions from biomass-fired and other biogenic sources. The Agency will use this time to seek independent scientific analysis of the complex issues pertinent to the climate impacts of these emissions and to develop a rulemaking on how these emissions should be treated and accounted for in Clean Air Act PSD and Title V permitting.

More specifically, as part of the reconsideration, EPA plans to effectuate a detailed examination of the science associated with CO<sub>2</sub> emissions from biomass-fired and other biogenic stationary sources and to consider the technical issues that the Agency must resolve in order to account for such CO<sub>2</sub> emissions in ways that are scientifically sound and also manageable in practice. EPA will ensure that partners within the federal government and scientists outside of it with relevant expertise play meaningful roles in this examination of the science. Following the completion of the examination, EPA will use the examination's work product in establishing, by notice-and-comment rulemaking, the system for determining applicability of the Clean Air Act's pre-construction permitting requirement to projects that result in CO<sub>2</sub> emissions from biomass-fired and other biogenic sources. EPA's intent is to ensure that both the scientific examination and the resulting rulemaking are completed within the three-year deferral period mentioned above.

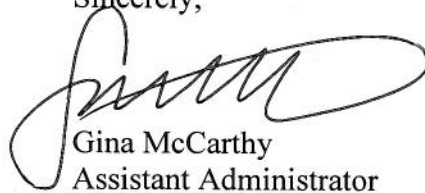
Concurrent with the proposal to defer application of PSD to CO<sub>2</sub> emissions from biomass-fired and other biogenic sources, EPA intends to issue interim guidance, applicable pending completion of the deferral rulemaking noted above, to help permitting authorities

establish a basis for concluding that the best available control technology (BACT) for CO<sub>2</sub> emissions at such sources is simply combustion of biomass fuels.

The Agency, however, is not granting the request for an administrative stay of the Tailoring Rule, because the rule is critical for making overall implementation of the PSD program feasible. Furthermore, an administrative stay of the statements in the preamble of the Tailoring Rule that describe EPA's initial determination not to exempt emissions of CO<sub>2</sub> from biomass would not provide the requested relief of excluding emissions of CO<sub>2</sub> from biomass from application of the PSD and Title V permitting programs. The effect of a stay of this or any other aspect of the Tailoring Rule would be to return the legal regime that existed before EPA's issuance of a final rule. As no exemption for emissions of CO<sub>2</sub> from biomass existed prior to the final rule, an administrative stay would not result in an exemption from the requirements of PSD and Title V.

EPA recognizes the importance of the issues raised with respect to CO<sub>2</sub> emissions from biomass-fired and other biogenic sources and their treatment under the PSD Program. I believe this course of action will enable the Agency to duly consider the points raised by NAFO and other stakeholders with an interest in this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gina McCarthy', with a large, stylized loop at the end.

Gina McCarthy  
Assistant Administrator